

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
 )  
Rulemaking to Amend Parts 1, 2, 21, and 25 )  
of the Commission's Rules to Redesignate ) CC Docket No. 92-297  
the 27.5 - 29.5 GHz Frequency Band, to )  
Reallocate the 29.5 - 30.0 GHz Frequency )  
Band, to Establish Rules and Policies for )  
Local Multipoint Distribution Service and )  
for Fixed Satellite Services )  
 )

REPLY OF HUGHES COMMUNICATIONS GALAXY, INC.

Hughes Communications Galaxy, Inc. ("HCG") hereby replies to the opposition and the comments that were filed in response to HCG's Petition for Reconsideration or Clarification (the "HCG Petition") of the Commission's Third Report and Order, FCC 97-378 (released October 15, 1997) in the above-referenced proceeding (the "Third Report and Order"). With the exception of the Comments and Partial Opposition of Motorola, Inc. to Petitions for Reconsideration (the "Motorola Opposition"), those commenters that addressed the HCG Petition fully supported the issues that HCG raised.<sup>1</sup>

In its petition, HCG sought clarification of the Third Report and Order to the extent that the Commission has not formally resolved the international spectrum needs of GSO

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<sup>1</sup> See Comments of Loral Space & Communications Ltd. in Support of Petition for Reconsideration at 2; Consolidated Comments of Lockheed Martin Corporation at 2; Comments of GE American Communications, Inc. on Petitions for Reconsideration or Clarification at 1; see also Opposition of Teledesic Corporation at 1 n.1 (no opposition to HCG Petition).

licensees, such as Spaceway, which needs the Commission indicated in the May 1997 Spaceway license grant it would address in this proceeding.<sup>2</sup> Although the Commission's Third Report and Order has now made clear the rules under which GSO FSS systems such as Spaceway may use the 17.7-18.8 GHz, 19.7-20.2 GHz, 27.5-28.6, and 29.25-30.0 GHz bands internationally vis-à-vis other U.S.-licensed satellite systems on a primary basis,<sup>3</sup> it has not yet formally granted HCG's request to operate Spaceway spacecraft on all of these enumerated bands in order to provide international service.<sup>4</sup>

To preserve its rights with respect to this issue, HCG therefore respectfully requested in its Petition that the Commission clarify that the Spaceway license covers the right to operate spacecraft on those bands in order to provide international service at each of the orbital locations that have been assigned for Spaceway. This is an issue that the Commission left open in the Spaceway license grant and decided as a general matter for all U.S. licensees in the Third Report and Order, but has failed to take the final logical step of specifically applying its general decision to the Spaceway license. Thus, HCG simply requested in its Petition that the Commission "close the loop" created by the Commission's deferral, in the Spaceway license grant, of the issues pertaining to international coordination among U.S.-licensed FSS Ka band systems, which issues were resolved in the Third Report and Order.

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<sup>2</sup> See *Hughes Communications Galaxy*, DA 97-971 at ¶ 33 (released May 9, 1997) ("We will discuss in more detail international coordination procedures among U.S.-licensed FSS Ka-band systems, both GSO and NGSO, in the 28 GHz Band Satellite Report and Order.")

<sup>3</sup> Third Report and Order at ¶¶ 67-71.

<sup>4</sup> See *Hughes Communications Galaxy*, DA 97-971 at ¶ 36 (released May 9, 1997) ("Hughes Communications Galaxy, Inc. IS AUTHORIZED to launch and operate twenty GSO FSS satellites, to provide fixed-satellite service in the United States in the frequency bands 19.7-20.2, 28.35-28.6 and 29.25-29.5 GHz") (caps in original).

Motorola's response to HCG's request appears to be based on a misunderstanding of this request: Motorola argues that "it is only through international coordination" that HCG "will be authorized to use spectrum for international operations."<sup>5</sup> HCG acknowledges that the Third Report and Order mandates that HCG's use of the Ka band internationally is subject to coordination with other U.S. satellite licensees in accordance with those rules. HCG also acknowledges that the provision of service in foreign countries will be subject to compliance with any applicable foreign laws, and, of course, HCG, like any other satellite operator seeking protection from interference caused by radio stations authorized by foreign administrations, must comply with the ITU publication, coordination and notification procedures.

HCG's point is more basic: now that the FCC's Ka band satellite service rules have been established, the Commission should make clear that the FCC-issued Spaceway license authorizes HCG to operate spacecraft at 17.7-18.8 GHz, 19.7-20.2 GHz, 27.5-28.6, and 29.25-30.0 GHz subject, of course, to the FCC's Ka band satellite service rules.<sup>6</sup>

There is no basis for Motorola's suggestion that ITU rules (whether adopted before or after the adoption of the FCC's service rules) are applicable to the coordination of U.S.-licensed spacecraft.<sup>7</sup> The Commission was abundantly clear in the Third Report and Order that the Ka band service rules will ultimately govern coordination among U.S. spacecraft licensees, and that ITU rules are applicable only in the case of coordination of non-U.S. licensed

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<sup>5</sup> Motorola Opposition at 18-19.

<sup>6</sup> See generally, *PanAmSat Licensee Corp.*, DA 97-1407, (released July 7, 1997) (authorizing PanAmSat to operate a spacecraft at 58° W.L. on various frequencies to provide international service).

<sup>7</sup> Motorola Opposition at 19, n 61.

spacecraft.<sup>8</sup> Thus, recent ITU changes that Motorola cites are entirely irrelevant unless and until the FCC conducts a rulemaking and incorporates those ITU developments into its rules.

HCG also requested in its Petition that the Commission clarify the requirement that U.S. satellite licensees conform their international operations to certain rare deviations from the Commission's 28 GHz band plan.<sup>9</sup> Specifically, HCG requested that the Commission provide detailed information about the precise nature of these international deviations from the 28 GHz band plan and the extent to which satellite licensees may be required to modify their licensed systems to comply with these deviations.<sup>10</sup> HCG's concern in this regard is that neither HCG nor any other licensee for that matter can be expected to finalize its system design and commence construction without knowing the extent of the modifications that the Commission may impose to comply with these rare deviations from the 28 GHz band plan. Indeed, this basic principle seems beyond reproach.

Motorola's response to this request simply begs the question. Motorola states that private coordination agreements, which may be the genesis of the need to deviate from the 28 GHz band plan internationally, "typically contain confidential information regarding spectrum utilization and are not made public."<sup>11</sup> Motorola makes no attempt to explain, because it cannot, how a licensee can ensure that its system complies with a deviation from the 28 GHz band plan that is necessitated by a private coordination agreement without knowing the parameters and the scope of the deviation from the 28 GHz band plan.

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<sup>8</sup> Third Report and Order at ¶¶ 71-72.

<sup>9</sup> HCG Petition at 4.

<sup>10</sup> *Id.*

<sup>11</sup> Motorola Opposition at 4, n.11.

Finally, HCG requested that the Commission modify the text of FCC rule Section 25.145 to ensure symmetrical treatment of GSO and NGSO licensees. No commenter objected to this request and a number of commenters support the proposed modification.

Therefore, HCG respectfully reiterates its request that the Commission reconsider and/or clarify its Third Report and Order in this proceeding in order to (i) confirm that neither NGSO nor GSO licensees are required to comply with construction milestones before the *unconditional* grant of their respective licenses, (ii) specify in detail the extent to which GSO licensees will have to modify their international operations in order to comply with deviations from the 28 GHz band plan that are the result of preexisting U.S. government coordination agreements, and (iii) confirm that HCG's Spaceway system is authorized to conduct international operations across the full bandwidth at Ka band that is available under the Commission's rules for GSO FSS systems on a primary basis (*i.e.*, 17.7-18.8, 19.7-20.2, 27.5-28.6 and 29.25-30.0 GHz).

Respectfully submitted,

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February 17, 1998

## CERTIFICATE OF SERVICE

I hereby certify that I have this seventeenth day of February, 1997, caused a true copy of the foregoing "Reply of Hughes Communications Galaxy, Inc." to be served by first class mail, postage prepaid, on the following:

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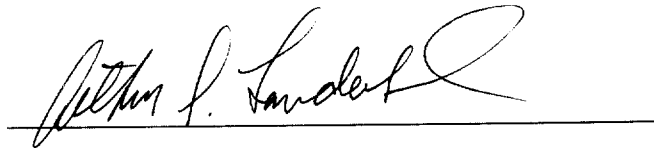
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